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In re Application of	:	
JOHN B. WELLS (deceased)	:	DECISION ON
Application No.: 09/623,793	:	
PCT No.: PCT/US99/05287	:	PETITIONS TO CORRECT
Int. Filing Date: 11 March 1999	:	
Priority Date: 11 March 1998	:	INVENTORSHIP AND
Attorney Docket no.: 70869-0068US	:	
For: APPARATUS FOR THE STERILE	:	UNDER 37 CFR 1.42
TRANSFER OF FLUIDS	:	

This is a decision on a Petition to Correct Inventorship and a submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 10 September 2001.

**BACKGROUND**

On 08 September 2000, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, a copy of the international application and an executed declaration. In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicant filed a declaration that was signed by inventors Wesley H. Verkaart and Lou Blasetti and by Lin A. Jakary as legal representative for inventor John B. Wells (deceased). The submission was treated as a request for status under 37 CFR 1.42.

On 09 February 2001, a decision was mailed to applicants indicating that the declaration was unacceptable because it did not state the country of citizenship, former residency and mailing address of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3).

On 10 September 2001, applicants filed the instant petition to correct inventorship to include Steven Gann and submitted a new declaration signed by all inventors including their

residence, citizenship and post office address and by the legal representative of deceased inventor, John B. Wells.

### **DISCUSSION**

#### **Renewed Petition under 37 CFR 1.42**

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and the citizenship, residency and mailing address of the heir(s)/legal representative.

The declaration submitted on 10 September 2000 identifies each inventor and states the country of citizenship, former residency and mailing address of the deceased inventor and that of the legal representative as required for compliance with 37 CFR 1.497(a)(3) and thus, is acceptable. See 37 CFR 1.64. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

#### **Petition to Correct Inventorship**

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor . . .

that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(I); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants included a declaration by Steven Gann stating that the error in "not being originally named as an inventor in the above-identified patent application occurred without deceptive intent" on his part. This declaration is signed by Mr. Gann and satisfies item (1) of 37 CFR 1.497(d).

The processing fee of \$130.00 has been paid. Item (2) above is also satisfied.

Applicants also included a "Consent of Assignee" document signed by Mr. Gary D. Tureski, President of Harvest Technologies Corporation, who states that the assignee "hereby consents to the addition of Steven Gann as an inventor." This document satisfies item (3) above.

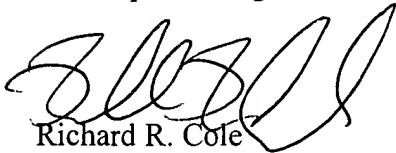
Accordingly, applicants have met all of the requirements to add Mr. Gann as co-inventor in the above-identified international application.

### CONCLUSION

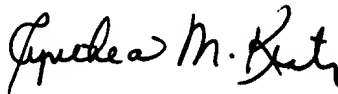
For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Mr. Gann as co-inventor is hereby **GRANTED**.

For the above reasons set forth above, the request for status under 37 CFR 1.42 is presently **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 10 September 2001.



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